

simply pay these excessive amounts; others will generate costly complaint activity with their LECs and regulators.

For these reasons, after-the-fact monetary penalties for requesting unauthorized PIC changes are wholly inadequate to address the problem. Accordingly, the Commission should adopt, on an emergency basis, a requirement that NYT not implement any additional payphone PIC changes, except to reverse unauthorized PIC changes, without first verifying that premises owners have requested such changes.

## II. ACCURATE INFORMATION ON PAYPHONE SIGNS

Rules requiring that payphones have signs posted that give customers information regarding the presubscribed carrier's identity, rates, and complaint procedures are a critical "point-of-sale" consumer safeguard. Of course, this safeguard is worthless, as a practical matter, if it is not adhered to.

The risk of erroneous payphone PIC information must be eliminated expeditiously and thoroughly.<sup>8</sup> The solution is obvious: No payphone PIC change should be implemented unless and until the appropriate information is posted on the affected public telephones. The Commission should adopt an emergency rule requiring that this be done as a condition precedent to any PIC change.

Both retrospective and prospective relief are required. First, NYT should file a plan within 30 days for (a) auditing the accuracy of PIC designations on existing payphone signs and (b) correcting those signs immediately through temporary stickers and then with permanent signs within a reasonable time period. Second, NYT should also file a plan within 30 days for establishing internal controls that assure that no further payphone PIC changes are implemented unless NYT verifies the premises owner's authorization and installs the appropriate sign.

## III. REFUNDS OF OVERCHARGES ON INTRASTATE CALLS

The data summarized in Attachment A to this letter show that Oncor's rates for telecommunications services vastly exceed those

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<sup>8</sup> Further, since payphones in high-traffic public areas may generate hundreds or even thousands of dollars of revenues, an unscrupulous carrier may deem the risk of incurring a penalty of substantially lesser value a mere "transaction cost," particularly if prompt detection (through verification) is unlikely.

of facilities-based carriers such as AT&T and MCI. Customers clearly should not have to pay more than they expected. If a sign states that AT&T or MCI is a particular payphone's PIC, customers using that phone should not pay any more than AT&T or MCI charges for the calls they make.

It may be argued that since callers should have heard the name "Oncor" following the "bong" upon dialing a call, they were on notice that the information on the payphone signs was erroneous and therefore proceeded to place calls at their peril. Such a contention must be rejected. Hurried customers using payphones in noisy transportation centers and public areas may not hear the brief message and, in any event, would have relied on the written information posted on the payphone immediately before them rather than a fleeting aural message. Moreover, customers who might have suspected something awry in the "branding" message would understandably call the written toll-free numbers of facilities-based carriers appearing on the spurious signs to determine what rates would be imposed. This act of precaution would have been to no avail since the quoted charges were considerably lower than those which subsequently would appear on their bills. Whether or not the rates charged by "Oncor" exceeded those permitted under filed tariffs is immaterial. Consumers using payphones with inaccurate PIC information were clearly misled.

Since customers expected to pay the rates of facilities-based carriers, they should not be required to pay anything more. Accordingly, the PSC should require that all affected customers be refunded all interstate long-distance charges in excess of those charged for comparable services by the firms who were named as PICs on the erroneous signs.

#### IV. COSTS OF REMEDIAL ACTIONS

The corrective measures discussed above -- verifying the accuracy of payphone signs, correcting erroneous ones, refunding excessive charges to consumers, and establishing effective internal controls to prevent the recurrence of problems with mislabelled payphones -- will necessarily involve some costs. None of those costs should be charged "above-the-line" by any telecommunications provider. The allocation of such costs among NYT and other telecommunication providers should be determined by those entities, or by the FCC, if no agreement is reached. In no event should the costs be charged to consumers. Consumers have incurred substantial overcharges because of exorbitant rates on calls from mislabelled

payphones. They should not bear any of the cost incurred in remedying this problem.

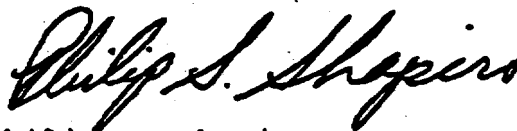
\* \* \*

Thank you for your consideration of these requests.

Very truly yours,



Joel Blau  
Director  
Utility Intervention



Philip S. Shapiro  
Intervenor Attorney

Attachments

cc: Mr. A. Richard Metzger, Jr., Acting Chief, Common Carrier  
Bureau  
Hon. G. Oliver Koppell, New York State Attorney General  
John M. Clarke, Esq., New York Telephone Company  
Michael Morrissey, Esq., AT&T  
Richard Fipphen, Esq., MCI  
Craig D. Dingwall, Esq., Sprint Communications Company, L.P.  
Keith Roland, Esq., Empire Association Of Long-Distance  
Telephone Companies  
Eddie M. Pope, Esq., International Telecharge, Inc.

Credit-Card Call , Day Period  
Intrastate, InterLATA Albany-New York City

	Direct Dial ("0+")		Operator Assisted ("0-")	
	Initial Period (3 Minutes)	Additional Minute	Initial Period (3 Minutes)	Additional Minute
AT&T	1.35	.20	2.25	.20
MCI	1.37	.21	2.23	.20
Oncor	3.86	.48	4.76	.48
RCI	1.35	.20	2.25	.20
Sprint	1.14	.16	2.04	.16

Credit-Card Calls, Day Period  
Intrastate, InterLATA (Albany-New York City)  
Directory Assistance

	Direct Dial ("0+")		Operator Assisted ("0-")	
	Minimum Charge	Additional Minute	Minimum Charge	Additional Minute
AT&T	2.20	No Charge	2.95	No Charge
MCI	1.83	No Charge	1.53	No Charge
Oncor	5.35	No Charge	5.35	No Charge
RCI	2.20	No Charge	2.95	No Charge
Sprint	1.30	No Charge	2.54	No Charge

Note 1: Rates exclude taxes.

Note 2: Oncor's rates, based upon an Albany payphone, can vary by location, depending upon "provider charges" added to base rates.

Note 3: RCI's rates mirror those of AT&T.

# Credit-Card Cal , Day Period Interstate Albany-Washington

Direct Dial ("0+")			Operator Assisted ("0-")	
	Initial Period (3 Minutes)	Additional Minute	Initial Period (3 Minutes)	Additional Minute
AT&T	1.58	.26	2.83	.26
MCI	1.58	.26	2.83	.26
Oncor	5.35	.28	5.35	.28
RCI	1.58	.26	2.83	.26
Sprint	1.58	.26	2.83	.26

# Credit-Card Calls, Day Period Interstate Albany-Washington Directory Assistance

Direct Dial ("0+")			Operator Assisted ("0-")	
	Minimum Charge	Additional Minute	Minimum Charge	Additional Minute
AT&T	2.20	No Charge	2.95	No Charge
MCI	1.53	No Charge	1.53	No Charge
Oncor	10.18	No Charge	10.18	No Charge
RCI	2.20	No Charge	2.20	No Charge
Sprint	1.30	No Charge	2.54	No Charge

Attachment A, page 2 of 2

Note 1: Rates exclude taxes.

Note 2: Oncor's rates, based upon an Albany payphone, can vary by location, depending upon "provider charges" added to base rates.

Note 3: RCI's rates mirror those of AT&T.

Attachment B

NY PSC Rule 649.2, 16 NYCRR §649.2:

[Rule] 649.2 Basic requirements. A provider of intrastate operator assisted communications services must:

(a) identify itself at the time the end-user accesses its services;

(b) upon request, quote all rates and charges for its services to the end-user accessing system;

(c) arrange to have posted in plain view at each telephone location which automatically accesses the operator service provider's network and where its services are made available either to the public or transient end-users:

(1) the operator service provider's name and address;

(2) bill and service dispute calling information including the operator service provider's dispute resolution phone number;

(3) clear and specific instructions informing the end-user how to access a local exchange telephone company operator as an alternative available to the end-user; and

(4) notice concerning any and all amounts to be billed by the operator services provider on behalf of any host location or third party which will appear on the operator service provider's bill for services rendered.